

COMMISSIONERS APPROVAL

GRANDSTAFF *cg*

ROKOSCH *JRM*

THOMPSON *at*

CHILCOTT *gc*

DRISCOLL *KD*

PLETTENBERG (Clerk & Recorder)

Members Present..... Commissioner Carlotta Grandstaff,
Commissioner Jim Rokosch, Commissioner Alan Thompson, Commissioner Greg
Chilcott and Commissioner Kathleen Driscoll

Date.....September 5, 2008

Minutes: Beth Perkins

► The Board met for a continuation of a public hearing for Lone Pine Estates subdivision. Present were County Attorney George Corn, Senior Planner John Lavey, Planner Randy Fifrick, Representatives Jake and Jean Kammerer and several citizens.

Commissioner Grandstaff opened the public hearing. She requested any disclosures for conflicts of interest. Commissioner Grandstaff stated she received two phone calls regarding the drainage issues one from Rich Morrissey and one from Stewart Brandborg. Commissioner Driscoll and Commissioner Rokosch both stated they as well received the same calls.

Commissioner Grandstaff stated this hearing is for new information only directed from July 17th meeting.

Randy stated this hearing was continued due to the traffic study which constitutes new information. In the last hearing, the level of service for Eastside Highway was discussed. It is at a level of service B. The service level F is where it will be in the year 2030 without any improvements. Randy stated any new information presented today cannot be considered by the Board.

Commissioner Grandstaff opened public comment.

Jake stated he would like the new information presented in the last meeting to be read back, specifically the effects to Eastside Highway by this subdivision. Jake read a section of July 17th minutes where Commissioner Rokosch made a statement pertaining to

Criterion 3. He stated Commissioner Driscoll stated Eastside Highway is at level F. There is conflicting information. He discussed with Shane Stack of MDOT, the mitigation of level F service and Eastside Highway. He stated Shane Stack told him Eastside Highway is at service level B not F. Most of the new information that was brought forth in the July 17th meeting is conflicting. Commissioner Rokosch stated he was concerned about the crashes and fatalities on Eastside Highway. Jake stated he went back to highway patrol for the statistics. The crashes are going down not up. He does not understand how much impact a 17 lot subdivision would have.

Rich Morrissey stated he does not object to the development of this property for residential use. His concern is the density. He stated he heard a story by a farmer from Theresa Blazicevich regarding the drainage. The drainage on this property is so bad that he has to install panels. He called the farmer repeatedly and never got a response. He spoke to Gary Leese who has farmed in this area and he told him the property could not support potato farming or any other agricultural production due to the drainage. His concern is the drainage problems that will be created by residential homes. He stated he would be willing to pay for a trained hydrologist to examine this issue.

Commissioner Thompson questioned legal counsel regarding new information during this hearing. George Corn replied new information maybe presented however, it cannot sway the decision of the Board.

Lee Kierig asked Randy about the status of the hearing and receiving new information. Commissioner Grandstaff stated this hearing is to hear the new information requested in the last hearing. Commissioner Rokosch stated the comment received is new information. The Board will continue with deliberation.

Commissioner Grandstaff closed public comment and opened Board deliberation.

Commissioner Chilcott requested Staff to read back the motion from July 17th. George stated if this is information related from the new information request on July 17th, it can be considered.

Commissioner Grandstaff asked Jake regarding the overage of 45 days and how it affects his client. Jake replied every day costs his client money. The reason why it went over 45 days was information being obtained by Planning Staff and the Board of County Commissioners, not his client.

Bill VanCanagan stated his firm is proceeding with the reservation of all rights. He stated they are past the 45 day limitation and are proceeding. George Corn used permitting for a gravel pit as an example on 45 day limits. He stated they have heard from three different supreme courts around the State on limitations.

Commissioner Rokosch questioned attachment G daily volume ranges. He stated there are two sets of numbers. What does the new project refer to and which section of S203 do the numbers refer to? Commissioner Driscoll stated she received this attachment from

Planning Board member Ben Hillicoss who in turn got it from a MDOT data collector. She stated she asked Shane Stack at that time, who replied the highway, is at service level F. Later Shane stated it is not at level F but lower.

Commissioner Rokosch asked Jake for the current level and added at some point the level is at 7,000 ADT (average daily trips). Jake replied those numbers are from the Bill Cloud study done at the junction of Highway 93 & Eastside Highway and Eastside Highway & Eight Mile Creek Road. Jake stated level of service is not based solely on volume, it is the amount of time spent at intersection before being able to freely move. Jake stated there are two levels of service. Jake explained the level of service will be different with a traffic controlling device. He further explained the difference of the level of service within peak hours. In both cases, it was not projected to be at a level F until 2030.

Randy stated the level of service is in attachment B pages 138 & 139 of the corridor study. Commissioner Rokosch noted where it lists the level of service B, is where they are referencing making improvements with build conditions. Randy stated the table is referencing the year 2030 at a.m. peak hours with the delay of 120 seconds. With no build conditions, it would be at level C. All of this is in the year 2030.

Commissioner Rokosch stated with this level of service it will be at level F. Jake stated he is not concerned with the year 2030 and he does not know why the Commissioners do not have a complete study. He stated he is concerned with today not 2030. This is the second time this meeting has been rescheduled and everything has been found to not be an issue. He stated now they are here today for the effects on the highway based on this study. It is up to us to refute what was said in the last meeting. There is quite a bit of information presented for this meeting to take place and now has been found incorrect based on this study. Commissioner Rokosch requested Jake to show him specifically what he is talking about. Jake presented Commissioner Rokosch with the study documents.

Commissioner Rokosch read the documents to the Board stating the highway is at level B. Commissioner Thompson stated the Board talks about the level of service as if every vehicle will access to the north. He stated there are 3,000 people from Ravalli County driving to Missoula County for work and 1,000 from Missoula County to Ravalli County. This discussion is about a subdivision slightly north of Stevensville. The level of service will not rise from level B to level F as a result of this 17 lot subdivision. Commissioner Rokosch stated the information in attachment G is confusing on the traffic volumes. He pointed out the clarification of the level of service to D. Commissioner Chilcott stated attachment G does not talk about the intersection. Commissioner Rokosch stated one is based on delay and the other on traffic volume show two different levels of service. He stated in comparison to the study, the 7,000 count would be level D.

Commissioner Rokosch read an email by Bill Cloud from MDOT to Jean Kammerer. The email stated 7,150 represent the ADT for the year. He stated with this information and the table in attachment G it would be at level D. Jake stated this information is at the junction

of Highway 93 and Eastside Highway which is a long way from this subdivision. Commissioner Rokosch requested the email be put into the record.

Commissioner Grandstaff asked what are the traffic impacts of this subdivision for this stretch of highway. Jake replied the area is south of Eight Mile Creek area. He has traffic studies for Aspen Springs and Legacy Ranch. This traffic analysis was done for Porter Hill Road and Dry Gulch Road. The ADT was 2,700 and average weekday ADT was estimated at 3,000. In 2005, it was at level A. In 2026, it will be at level B but with the background and site it would still be at level B. This is for Legacy Ranch.

George Corn asked if a traffic impact analysis was required with this subdivision. John replied MDT did an analysis on the base level. If it is high enough, they would require the developer to provide a traffic impact analysis. It was not required for this subdivision.

Commissioner Grandstaff stated the attachment C from Glen Cameron requests consideration from the Board to work towards mitigation for impacts on their infrastructures. Commissioner Chilcott stated that is absolutely absurd.

Commissioner Rokosch stated it is not clear in the conversation with Dwayne Kailey from MDOT with part of the criteria to include considerations for Public Safety. He stated just because there is an access permit, it does not imply significant impacts or negative impacts to traffic safety. He stated he is not sure of the mechanism to mitigate those negative effects. John pointed out attachment A-6 in the original Staff Report.

Commissioner Driscoll stated she spoke with Shane Stack regarding obtaining an access permit and the requirements. Commissioner Chilcott stated the State was able to weigh in on this subdivision due to their ability to deny an access permit for this road. To suggest the County require mitigation, they need to demonstrate the road won't handle the traffic. He stated absent that, this Board is on thin ice. They granted an approach permit for 17 lots. If they had data to support negative impacts to Public Safety, they should forward it to the County for the subdivision review.

Jake stated he sent an email to Mr. Kailey regarding mitigation fees or impact fees and requested minutes of those meetings. He stated Mr. Kailey replied there are no minutes due to they are informal discussions. To be more specific on S203, the corridor should be reasonable for quite some time. The intersection of S203 and Highway 93 are experiencing some safety concerns. Jake stated this subdivision is no where near these intersections.

Bill VanCanagan stated the function of this Board is to weigh the evidence. The Board cannot request a developer to prove a negative. In the absence of this evidence, this subdivision should be approved.

Commissioner Rokosch stated he would focus on the concerns with those intersections. There is evidence for this Board to consider the concerns with loading on those intersections. He pointed out attachment D and E which refer to the intersection of

Ambrose Creek Road and Eastside Highway. There are plans to place flashers and it also refers to widening of the traffic lanes and shoulders due to the curvatures. This is less than a mile from this subdivision. There is a clear need to address these safety concerns with this evidence near the proposed development. Jake replied the flashers have already been installed and the removal of the S curve is a project but it is not a priority project. The area of the subdivision is approximately two miles from Ambrose Creek Road. He stated MDOT engineers do not have any concerns for safety of the access of this subdivision or they would not have issued the access permit.

Commissioner Grandstaff discussed the crash statistics. Commissioner Rokosch requested clarification for the start point and the end point of the statistics. Jake replied it is the beginning of S203, 5 miles from Stevensville. Jake stated it was requested of him to provide crash and fatality statistics specific to S203. Commissioner Driscoll asked Jake how MDOT uses these statistics. Jake replied these statistics are not from MDOT but Highway Patrol. Commissioner Rokosch stated in regards to the total number of fatality reducing, the injury crashes are rising. He is not sure if the over all numbers are reflecting a reduction. Jake replied in total it shows they are reducing. Commissioner Chilcott asked how the Board knows if this fits into a normal scheme of things. There are no comparisons of other roads. Further discussion followed regarding the reduction of crashes along S203.

Commissioner Driscoll stated this Board is sensitive to the safety of this county. Randy presented the Board with crash and fatality statistics from Jack Williams from MDOT. Randy stated Jack made an error and therefore attachment P is incorrect. He presented the Board with a correction. Jake replied these numbers are better than he expected since they are lower than what he presented to the Board.

Commissioner Rokosch stated the information presented shows effects that need to be mitigated. He asked Jake what is his preference for mitigation. Jake replied he does not see a significant impact that needs to be mitigated. The information presented to prompt this meeting has been proven incorrect. He does not see any impacts to mitigate.

Commissioner Grandstaff stated based on a highway that is already operating at capacity, this subdivision will have an impact on that highway. Jake stated he asked the State and they replied they do not have a method of mitigation at this time. Commissioner Grandstaff replied she has a written request as well as several conversations requesting mitigation for the impacts on the highway. Jake replied those conversations are casual and there has been no official cooperative requests for mitigation. Commissioner Chilcott stated there is conflicting information in these two packets. He stated they have a letter from MDOT specific to Lone Pine Estates. He stated what they are using is a letter to Planner Shaun Morrell on a 50 lot major subdivision as basis for a mitigation request. Randy replied the letter was submitted by Commissioner Rokosch. Commissioner Rokosch agreed with Randy and stated he did in fact request the letter be part of the record due to its contents. It is relative to this subdivision hearing.

Bill VanCanagan stated the letter is suggesting the Commissioners take a global perspective on this highway. He declared it does not state or request the Board to ask for mitigation for impacts of this subdivision or any other subdivision.

Commissioner Grandstaff closed this portion of the hearing pertaining to new information. She then requested a recap of the votes for the six criteria from the July 17th meeting. Randy read the votes to the Board.

Commissioner Grandstaff stated she has a problem with the first conveyance payments of mitigation. She explained her reasoning behind this being the lack of tracking payments. She then discussed the mitigation for the school district. Commissioner Thompson pointed out as part of the new information received; there is a letter from Civil Counsel Karen Mahar regarding mitigation for school districts. He then read the letter. He stated the Board needs to look at what has been done in the past as to what has been mitigated for the impacts to School Districts. He stated it has gone from nothing to \$250 per lot to \$500 per lot and it is now increasing. It was agreed to pay \$700 per lot which is consistent of what has been done in the past. He stated the Stevensville School District has accepted \$700 per lot. Commissioner Rokosch argued the amounts accepted in the past are inadequate to mitigate the impacts on the cost of educating a student. There are significant costs to infrastructure. Commissioner Grandstaff stated past mitigation was based on nothing and now there is information to base mitigation requests. She stated she agrees with Commissioner Rokosch.

Commissioner Rokosch requested using the full cost of educating a student for suggested mitigation which is \$8,020 per pupil for Stevensville School District. Commissioner Chilcott asked Commissioner Rokosch which table he is referring to on the letter Superintendent Ernie Jean submitted. Commissioner Rokosch replied the first table. Commissioner Chilcott argued that is incorrect. He stated in every past subdivision the Board has always used the bottom table for negotiating mitigation. Further discussion followed regarding which table has been used for mitigation.

Jake requested to confer with his client. He stated as for first conveyance, it may be an inconvenience for the Board to track it however, it shows on through the title company. He stated he does not see any problems with tracking it.

Jake stated his client does not see how mitigation can be upon 17 lots and not 14 lots. However in an effort to be cooperative, they understand where those figures are coming from. He discussed his past conversations with Ernie Jean and why he does not know where these numbers go. **His client offered to pay \$900 for 14 lots upon final plat for the mitigation of impacts to Stevensville School District.**

Commissioner Grandstaff reiterated the criterion and mitigation. She stated for criterion four, there has been an offer to pay for a hydrologist. John stated we have concerns that it would be new information and there are 13 days to finish this review and more specifically 8 days since the overage. George Corn agreed with Planning Staff.

Commissioner Driscoll stated every review gets more detail by going through the Board. It is the Board's responsibility to ensure public health and safety with subdivisions and to mitigate any impacts. Commissioner Grandstaff asked Jake what is his client's preference. Jake replied there are no tile drains that exist. He offered to have the DEQ hydrologist look at it and they came back with no issues. There is no impact from this. George asked who raised the need for a hydrological study. Commissioner Thompson stated the Lee Metcalf Refuge did not have concerns to justify a hydrologist. Commissioner Driscoll pointed out the Director of the Refuge did have some issues. Jake replied Commissioner Rokosch lead the director's testimony to say there is an impact after a line of questioning. Jake stated the director stated there aren't any problems with the drainage.

George affirmed there has to be a record to base this request upon. Commissioner Rokosch stated he objects to Jake's statement of leading anyone's testimony. At this point, all the Board can do is enter it into the record the offer was made. This is still under DEQ review. If DEQ chooses to do so, there is funding for a hydrologist. Commissioner Grandstaff asked Jake if he understands what Commissioner Rokosch is saying. Jake replied yes. Commissioner Rokosch recommended giving the offer to DEQ for the hydrologist. The Board concurred. Commissioner Chilcott stated there is a letter showing some concern from the Refuge. He stated the Director of the Refuge came in and gave testimony in previous hearings.

Randy recapped the offered mitigation as follows:

- \$500 for 17 lots to Three Mile Fire District prior to final plat
- \$900 for 14 lots to Stevensville School District prior to final plat
- \$500 for 17 lots for Public Safety split between final plat and first conveyance
- \$1,000 lump sum for Impacts on Agriculture prior to final plat
- Letter from the Ditch Company stating they are pleased with the location of fence(s)
- Create a Homeowner's Association with bylaws
- Language change for Condition 14 for removal of ditch

Commissioner Chilcott made a motion to conditionally approve Lone Pine Estates Major Subdivision based on the findings of fact and the conclusions of law in the Planning Staff Report and as mitigated here today. Commissioner Thompson seconded the motion.

Discussion: Commissioner Rokosch pointed out he does not feel first conveyance is the appropriate time to pay mitigation. He also stated the offered mitigation to agriculture is not adequate. He added the mitigation to the school district is also not sufficient. He stated for public safety there is no offer of mitigation for the impacts of access on the highway. Commissioner Chilcott asked Commissioner Rokosch what would be his recommended mitigation for the highway. Commissioner Rokosch replied he does not know. He suggested using a table based on numerical fact like Superintendent Ernie Jean's for School Districts. Commissioner Thompson and Commissioner Chilcott voted

"aye". Commissioner Rokosch, Commissioner Driscoll and Commissioner Grandstaff voted "nay".

John expressed his concerns with the data that may translate into legal ramifications. He urged the Board to think about how its actions will turn out. Commissioner Grandstaff urged John to take in consideration the negative impacts on public health and safety. She stated those impacts are more important than a lawsuit.

Commissioner Driscoll stated she would be willing to look at the subdivision again if the impacts of the highway were mitigated. Commissioner Grandstaff directed towards Jake and stated they are looking for mitigation upon final plat and not first conveyance, increased mitigation to the School District as well as the offer of mitigation for the impacts on agriculture. She added there has been no offered mitigation for the impacts on the highway.

After a five minute recess, Jake came back with new offers of mitigation. He stated this is not agricultural land of State importance or prime farmland. He stated his client's final offers are **\$250 for 14 lots payable prior to final plat for impacts to agriculture, \$500 per lot for 14 lots prior to final plat for Public Safety, and \$1,000 per lot for 14 lots for Stevensville School District payable prior to final plat.**

Jake discussed the mitigation for the impacts to S203. He stated there is no evidence to prove the impacts therefore, no need to mitigate impacts without proof. He stated they do not see any authority for the Board to ask the developer for mitigation which there is no evidence and then collect that mitigation. Jake stated against his belief in an effort to show cooperation, **offered \$100 per 14 lots to mitigate impacts to the Highway prior to final plat.** Commissioner Grandstaff stated as for the offer of the hydrologist, the Board can choose the hydrologist. John asked how the Board perceives the remainder of this review to move forward with the hydrologist. Commissioner Grandstaff stated they will confer with DEQ and see if they accept the offer. Jake requested for the record a scope of the study and the expectation of the developer is included with the offer. Randy replied it will be the decision of DEQ.

Commissioner Chilcott made a motion to conditionally approve Lone Pine Estates Major Subdivision based on the findings of fact and the conclusions of law in the Planning Staff Report and as mitigated here today. Commissioner Driscoll seconded the motion. All voted 'aye. Motion carried.



Jean M Kammerer <jkammerer@wildblue.net>

Road Count S-203 and US 93

Cloud, Bill <bcloud@mt.gov>

Thu, Sep 4, 2008 at 12:44 PM

To: Jean M Kammerer <jkammerer@wildblue.net>

Cc: "Duke, Becky" <bduke@mt.gov>, "Kailey, Dwane" <dkailey@mt.gov>, "Cloud, Bill" <bcloud@mt.gov>

Good morning Jean.

Attached you will find a pdf document of the traffic data collected on Secondary route 203 just east of US 93. This document is the "raw" hourly traffic data collected on September 24 - 26, 2007. This is the most recent traffic count data we have at this location.

You will note that the "raw" data shows an average daily traffic total 8,007 for the days the data was collected. MDT then applies an axle and seasonal adjustment factor (in this case .893) which generates an "average annual daily traffic" number of 7,150. This number theoretically represents the average daily traffic for every weekday throughout the calendar year.

I hope this makes sense to you. If you have questions, please call Becky Duke at 406.444.6122.

From: Jean M Kammerer [mailto:jkammerer@wildblue.net]

Sent: Friday, August 29, 2008 5:01 PM

To: Cloud, Bill

Subject: Road Count S-203 and US 93

[Quote 1 text hidden]



S-203 TRAFFIC COUNT.PDF
43K